



APPENDIX.

Applicable Articles of the Civil Code of Louisiana.

Art. 2264: "No notarial act concerning immovable property shall have any effect against third persons until the same shall have been deposited in the office of the parish recorder or register of conveyances of the parish where such immovable property is situated."

Art. 2266: "All sales, contracts and judgments affecting immovable property, which shall not be so recorded, shall be utterly null and void, except between the parties thereto. The recording may be made at any time, but shall affect third persons only from the time of recording."

Art. 1850: "Consent to a contract is void, if it be produced by violence or threats, and the contract is invalid."

Art. 2324: "He who causes another person to do an unlawful act, or assists or encourages in the commission of it, is answerable, in solido, with that person for the damage caused by such act."

Art. 21: Equity Civil Matters—No Express Law. "In all civil matters, where there is no express law, the judge is bound to proceed and decide according to equity. To decide equitably, an appeal is to be made to natural law and reason, or receive usages, where positive law is silent."

Sample of Membership Contracts.

Cooke's Membership Contract of December 5, 1923, is identical with the contract signed by several hundred of the members, except as to amount and signature. It reads:

COMPLAINANTS' EXHIBIT 30.

(Also marked Cooke Deposition 5.)

(Duplicate of Com. Ex. "B" attached to Amended Petition. See Orig. Trans. p. 114.)

The document is on a printed form and constitutes the Walter E. Cooke subscription in the sum of \$3,375. The document is dated December 5, 1924, but the canceled revenue stamps on the back are cancelled as of December 7, 1923, and it was agreed in the evidence that the date 1924 was erroneous and should have been 1923. (See page 390.)

The instrument is set out in full, that portion thereof written with a pen being emphasized.

“Income Note Subscription Contract.

This Agreement made and entered into by and between L. M. Emlet, living in the City of St. Louis, Missouri, hereinafter called Trustee and *Walter E. Cooke of Paterson, N. J.*, hereinafter called Subscriber, Witnesseth:

Whereas the Subscriber is a shareholder of Emlet and Company or of Consolidated Texas Production Company or of one or more of the companies comprising the above named companies, now in possession of Trustee; and,

Whereas the Trustee is the owner of three certain oil and gas leases in Block Forty-seven (47) and Forty-eight (48), Parker County School Lands, comprising fifty-one (51) acres in Clay County, Texas; and,

Whereas the Trustee is desirous of raising sufficient capital to develop the properties and for the specific purpose of drilling and completing thirty wells on the above described lease and for the further purpose of drilling a test well on one certain lease in Hardin and Liberty Counties, Texas, comprising twelve hundred and fifty-three (1,253) acres now;

Therefore in consideration of the sum of One (1.00) Dollar paid by each to the other, receipt of which is hereby acknowledged and in further consideration of the mutual interests of the parties hereto the Subscriber hereby subscribes the sum of \$3375.00, Payable as follows, *\$100.00 Draft, 100.00 Income Note, (675.00) Six Hundred Seventy-five and no/100 cash herewith and the balance Balance of 2500.00 on or before Feb. 1, 1924.*

In acceptance of this subscription the Trustee has assigned to the Clayton National Bank, at Clayton, Missouri, the income from the said fifty-one acres above described and will cause the said Clayton National Bank to pay out of this income each month to Subscriber, beginning as of *Jan. - 1 - 1924* such part of the net income as this subscription is to the total amount subscribed and required for the purposes above named; such monthly payments to continue until subscriber has received the full amount of this subscription plus One Hundred Per Cent In Cash Profit. Upon fulfillment of the terms of this agreement and of all others of like tenor and effect and the surrender hereof to the Trustee by the Subscriber, the Trustee will cause to be issued to Subscriber shares of Emlet and Company, Incorporated, of a par value equal to ten times the face value of this subscription, provided the face value hereof is Twenty-five Per cent of the face value of the shares held by Subscriber in any of the companies first above referred to, provided further that the shares of Emlet and Company shall be issued when, as and if said Emlet and Company is incorporated and that the "ten times" above provided shall not be in excess of the par value of the shares now owned by Subscriber in any of the companies comprising Emlet and Company, Trust Estate or Consolidated Texas Production Company. If this subscription is less than Twenty-five Per Cent of the par value of the shares owned by Subscriber in any

of the Companies last above referred to then and in that event Subscriber shall receive upon maturity of this contract, Five Shares of Emlet and Company, Incorporated, for each dollar of the face value of this subscription.

When all contracts relating to or affecting title to or income from the Fifty-one Acres referred to herein have been fulfilled the Trustee agrees to transfer same to Emlet and Company, Incorporated, together with all properties of whatever nature now held or coming into his possession as Trustee.

In Witness Whereof we have hereunto set our hands and seal this the *Fifth* day of *Dec.* - 1924.

L. M. EMLET,
Trustee,

Per THOS. HENLEY.

WALTER E. COOKE,
Subscriber.

Make checks payable to L. M. Emlet, Trustee, 1303 Boatmen's Bank Bldg., St. Louis, Mo.

An approved copy of this contract will be returned to Subscriber."

Sample of Remittance Slips.

In connection with the testimony of Birdie Meinholt several hundred remittance slips accompanying contributions were offered in evidence (Record 537).

The following is a sample of 157 identical slips.

"I enclose herewith \$25.00 to be credited to my account under previous contract to receive \$2.00 in cash out of income for each dollar I pay in in support of shares of Emlet & Company, Inc., which you have issued to me."

**Complete Quotation From Appellee's Brief Below
Referred to in Petitioners' Reasons for
Granting the Writ.**

"We point out to the Court that Emlet issued to the complainants hundreds of circulars soliciting funds for his operations and that in not a single circular did he mention the name of Cooke, the man who delivered to Emlet a sum of money three times greater than the total contributions received by Emlet from his investors, the complainants. This, we think, is rather conclusive evidence of the fact that far from regarding Cooke as a member of his investment group, Emlet for quite some time was making every effort to conceal from the complainants, first, the existence of Cooke and, second, the exact relationship which he had with Cooke" (Appellee's Brief below, p. 87).

**Record References to Correspondence of Cooke and Gay
Disclosing Cooke's Confederacy With Gay to
Acquire Leaseholds of the Enterprise.**

Letter Cooke to Gay, Defts. Ex. 96, p. 39, Record p. 1338.

Letter Cooke to Gay, Defts. Ex. 96, p. 41, Record p. 1339.

Letter Gay to Cooke, Comp. Ex. 178, Record 1059, l. c. 1067.

Letter Cooke to Gay, Comp. Ex. 393, Record 1261.

Letter Cooke to Gay constituting Gay as Trustee, Comp. Ex. 179, Record 1067.

Questionnaire Cooke to Gay and Gay's Answers, Comp. Ex. 395, Record 1261, Record 1264, Record 1265, Record 1266.

Gay's letter to Cooke, December 19, 1927, Record 1069, Record 1072, Record 1073, Record 1074.

Letter Gay to Cooke, Comp. Ex. 396, Record 1267.
Letter Gay to Cooke, Defts. Ex. 100, Record 1345.
Cooke's wire to Gay, Comp. Ex. 186, Record 1081.
Cooke's letter to Gay, Comp. Ex. 185, Record 1080.
Cooke's letter to Gay, Comp. Ex. 184, Record 1077-1078-1079.

**Record References to Correspondence of Cooke and Gay
Disclosing the Manner in Which Cooke Lapsed the
Leases Acquired of Emlet Under an Understanding
With the Landlord for the Execution of a New Lease
and the Subsequent Sale Thereof to Benedum Trees
Oil Company.**

Letter Cooke to Gay, Comp. Ex. 190, Record 1086-88.
Letter Gay to Cooke, Comp. Ex. 196, Record 1093-4.
Letter Cooke to Gay, Comp. Ex. 197, Record 1094-5.
Letter Cooke to Gay, Comp. Ex. 198, Record 1096.
Letter Cooke to Gay, Comp. Ex. 388, Record 1255-6.
Letter Cooke to Gay, Comp. Ex. 390, Record 1257.
Letter Cooke to Emlet, Comp. Ex. 218, Record 1118-21-22.
Letter Cooke to Gay, suggesting that a new lease of all the
Loring territory had been acquired cutting everybody
else out and suggesting that the same plan be carried
out at Blue Lake, Comp. Ex. 205, Record 1100.
Letter Cooke to Gay, setting out the plan to abandon Blue
Lake ostensibly for the purpose of lapsing the leases
in order to cut Emlet out by securing a new lease,
Comp. Ex. 207, Record 1101-2-3.

Gay's reply to Comp. Ex. 207 with reference to abandoning Blue Lake territory, Comp. Ex. 207, Record 1101.

Letter Gay to Cooke explaining that they had the Loring acreage solid, Comp. Ex. 212-A, Record 1110.

Letter Gay to Cooke that the lease transaction had been effected, Comp. Ex. 222, Record 1124.

Letter Gay to Cooke showing how the lease subsequently sold to Benedum Trees had been secured from the landlord, Comp. Ex. 223, Record 1124.

The foregoing letters are too long to print, and are the letters referred to by the District Court in its first opinion.